

## REMARKS

This is a response to the Office Action dated October 10, 2007. The Examiner rejected claims 1-19 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,981,223 (“Becker”) and Werndorfer (Trillian Instant Messaging Program) (“Werndorfer”).

The rejections from the Office Action of October 10, 2007 are discussed below. The Applicant has amended independent claims 1 and 11, and added claims 20 and 21. The amendments are being made for clarity. No new matter has been added. Reconsideration of the application is respectfully requested in light of the above amendments and the following remarks.

### **I. WERNDORFER REFERENCE**

The Applicant would like to resubmit that the Examiner must submit affidavits as to his personal knowledge of the functionality of the reference, the priority date of the reference, and the functionality of the reference on or before June 7, 2002, none of which are inherent from the figures themselves. The Examiner solely relies on his handwritten comments, or personal knowledge, to demonstrate the functionality of the reference, the priority date of the reference and the functionality of the reference on or before June 7, 2002.

In regards to the functionality of the reference, the Applicant does not believe any functionality is shown in the screenshots, as they are merely static images without any supporting documentation describing the functionality, and any functionality asserted by the Examiner in support of a rejection must be supported by an affidavit. Although the Applicant refutes specific functionality below, the Applicant maintains that no functionality whatsoever can be asserted from the static figures without an affidavit.

Specifically the figures do not inherently show that the application maintains a “preprogrammed minimum height for the friends list page,” as claimed. By the Examiner’s own admission, on February 12, 2007, the Examiner hand wrote into Fig. 8 the text “minimal size to shrink friends list.” Office Action of October 10, 2007, p. 2. The text handwritten by the Examiner is the Examiner’s “**personal knowledge**” of the functionality of the application. Furthermore, in the Office Action of October 10, 2007, the Examiner asserts that “[t]he final figure, 8, shows the smallest possible size that the contact window can take without minimizing the entire Trillian Instant Messaging software program and therefore shows a preprogrammed

minimum height for the friends page.” Office Action of October 10, 2007, pp. 3-4. The Examiner’s assertion is solely based on the Examiner’s “personal knowledge.” There is no evidence inherent in the figures supporting either of the Examiner’s assertions. There is no evidence inherent in the figures that a user could not drag the corner of the friends list to further shrink the size of the friends list without minimizing the entire Trillian software. There is no evidence inherent in Figure 8 that it is showing the “smallest possible size that the contact window can take.” Office Action of October 10, 2007, pp. 3-4. The Examiner is relying on his personal knowledge as to the functionality of the reference and, as such, the Applicant respectfully requests an affidavit from the Examiner to support the rejections based on this personal knowledge according to MPEP 707.05 and 37 CFR 104(d)(2).

Furthermore the figures do not inherently show that “Werndorfer teaches content received from the web” and “[w]hen a user selects a shortcut, the webpage is displayed in a corresponding window on the display.” Office Action of 07/24/07, p. 4. Nowhere in Werndorfer is there any indication that content is received from the web, not even in the captions added by the Examiner. Furthermore the claims recite retrieving the content of the first interactive content tab, displayed in the instant messenger window, from a web page. Werndorfer does not disclose any indication that content from a web page may be displayed in the instant messenger window; in fact the examiner states the “webpage is displayed in a corresponding window on the display,” not in the instant messenger window as claimed. Office Action of 07/24/07, p. 4.

The figures do not inherently show that the Werndorfer reference has a priority date of “2000-2002”. The Examiner states that “the rejection is based on the Trillian Instant Messenger version 0.73, which has a copyright date of 2000-2002 (See Werndorfer reference Fig. 3). Office Action of October 10, 2007, p. 2. Fig. 3 of the Werndorfer reference has two unattached windows. One of the unattached windows, with a title of “Preferences,” includes text “Trillian Release Version 0.73, June 7, 2002.” There is no evidence inherent in Fig. 3 that the “Preferences” window was generated by the application in the figures, thus the Examiner is relying solely on his “personal knowledge” that the “Preferences” window in Fig. 3 was generated by the application in the figures. The “Preferences” window is not attached or connected in anyway with the application in the reference. There is no evidence inherent in the figures that the Trillian version described in the “Preferences” window is the same version

shown in the figures and, as such, the Applicant respectfully requests an affidavit from the Examiner to support the rejections based on his personal knowledge according to MPEP 707.05 and 37 CFR 104(d)(2).

The figures do not show that the reference disclosed the same functionality running on a computer and operating system on or before June 7, 2002 as it did running on the Examiner's computer and operating system on February 12, 2007. The figures do not inherently demonstrate that the operating system and hardware executing the application on or before June 7, 2002 is the same operating system and hardware the Examiner used to execute the application, or that the application functioned in the same manner on an operating system and hardware on or before June 7, 2002 as on an operating system and hardware on February 12, 2007. The Examiner asserts that "the Trillian Instant Messenger program will operate as programmed with the same functionality, regardless of changes made to the hardware on which the software is running." Regardless that this assertion doesn't touch on the changes to the underlying operating systems, this statement is the Examiner's "**personal knowledge**," and, as such, the Applicant respectfully requests an affidavit from the Examiner to support the rejections based on his personal knowledge according to MPEP 707.05 and 37 CFR 104(d)(2).

For at least the aforementioned reasons the Applicant believes that the Werndorfer reference is not valid prior art under §102 and as such can not be used in a 35 U.S.C. §103(a) rejection without an affidavit from the Examiner to support the rejections based on his personal knowledge according to MPEP 707.05 and 37 CFR 104(d)(2).

## **II. REJECTIONS UNDER 35 U.S.C. § 103(a)**

Independent Claims 1 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Becker in view of Werndorfer. The Applicant has amended independent claims 1 and 11, and added new claims 20 and 21. Becker discloses a "graphical user interface having multiple messaging session management." Becker, col. 6, ll. 43-45. Becker does not disclose a resizable content displayed in an instant messaging window, as claimed in independent claim 1 and 11. Further Becker does not disclose resizing a friends list page when the content is resized, wherein the friends list page is resized inversely to the change in size of the content, as claimed.

Werndorfer appears to be screenshots of a “Trillian” application. Nowhere in the Werndorfer reference does there appear to be any indication that the “Trillian” application displays resizable content within the instant messaging window, while displaying a friends list page, as claimed. Further nowhere in the Werndorfer reference does there appear to be any indication that the “Trillian” application resizes the friends list page inversely to a change in size of the content. For at least these reasons, the Applicant submits that amended independent claims 1 and 11, and all claims that depend thereon, are patentable over Becker in view of Werndorfer. Furthermore, the Applicant submits that new dependent claims 21 and 22 are patentable over Becker in view of Werndorfer independently of amended independent claims 1 and 11. Therefore the Applicant respectfully requests that the Examiner withdraw this rejection in regard to claims 1-20 and allow new claims 21 and 22.

### CONCLUSION

Each of the rejections in the Office Action dated October 10, 2007 has been addressed and no new matter has been added. Applicant submits that all of the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned if it would expedite the prosecution of this application.

Respectfully submitted,

November 26, 2007

Date

/Michael G. Dreznes/

Michael G. Dreznes  
Registration No. 59,965

Attorney for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200